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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA, GA 30357-0037

EXAMINER

NGUYEN, TRI V

ART UNIT	PAPER NUMBER
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1751

MAIL DATE	DELIVERY MODE
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07/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/938,950

Applicant(s)

GLOVER ET AL.

Examiner

Tri V. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

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DETAILED ACTION

In view of the appeal brief filed on 04/02/2007, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:



Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 1-10 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feidelson et al. (US 6,345,261) in view of Loveland (US 2002/0052818) and Seely, Jeffrey ("New US player further undercuts online fees." Funds International: Nov. 25, 1999. page 4) or Business Editors & High Tech Writers ("Wells Fargo becomes first major financial services company enabling fractional share investments in IRAs; Wells sharebuilder IRA retirement Dollars to Work Year-Round." Business Wires. New York, Feb 21, 2001. page1 - hereon referred to as "Business Editors").

Claim 1: Feidelson et al. discloses a method for providing a customer incentive program comprising the steps of:

- a. creating award accounts for a plurality of customers (col 2, lines 6-13; col 14, lines 34-44 and Fig 2);
- b. collecting information pertaining to purchasing transactions made by an individual customer with at least one of a plurality of sellers using the award account (col 14, lines 45-67; col 15, lines 1-5 and Fig 2);
- c. awarding equity interests in at least one of the sellers to at least one of the plurality of customers based at least in part on the customer's collected information (col 14, lines 45-67; col 15, lines 1-5 and Fig 2);
- d. aggregating the equity interest awarded to the plurality of customers, the aggregate equity interests including awards for individual customer accounts (col 14, lines 45-67; col 15, lines 1-5 and Fig 2); and

but does not explicitly disclose

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e. acquiring stock in the plurality of sellers representing the aggregate equity interests, and distributing the stock, including fractional shares of the sellers, into the individual customer accounts.

Feidelson et al. discloses acquiring securities related to the user's purchases at the participating merchants (col 4, lines 39-58). In an analogous art, Loveland teaches that it is known to use a reward system in which stocks of a merchant are acquired based on purchases made at the merchant (page 9, parag. 91) and Seely or Business Writers teach the feature of fractional shares (Seely: abstract and Business Writers: page 2, parag. 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. with the feature of acquiring fractional shares of a merchant as taught by Loveland and Seely or Business Writers. One would have been motivated to modify the method for providing a diversification of the portfolio without the limitation of high-priced shares thus ensuring that most of the award account is being invested and investment risk diversification.

Claim 2: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in claim 1, further comprising the purchasing transactions include purchases of goods or services using the Internet (Feidelson et al.: col 7, lines 1-33 and Figs 1 and 3).

Claim 3: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in claim 1, further comprising the step of creating accounts is performed using the Internet (Feidelson et al.: col 7, lines 1-33; col 7, lines 65-67; col 8, lines 1-25 and Figs 1 and 3).

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Claim 4: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in claim 1, further comprising the step of collecting information is performed using the Internet (Feidelson et al.: col 7, lines 1-33 and Figs 1 and 3).

Claim 5: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in claim 1, further comprising awarding equity interests to the customers by:

a. determining values associated with the purchasing and investing transactions of each customer using his award account (Feidelson et al.: col 14, lines 60-67; col 15, lines 1-15 and Fig 2);

b. awarding an equity interest to each customer in an amount based on the value associated with the transactions (Feidelson et al.: col 14, lines 60-67; col 15, lines 1-15 and Fig 2).

Claim 6: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in claim 2, further comprising the step of awarding equity interests to the plurality of customers by:

a. determining values associated with the purchasing and investing transactions of each customer using his award account (Feidelson et al.: col 7, 1-33 and Fig 2);

b. awarding an equity interest to each customer in an amount based on the value associated with the transactions (Feidelson et al.: col 7, 1-33 and Fig 2).

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Claim 7: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in claim 3, further comprising the step of awarding equity interests to the plurality of customers by:

- a. determining values associated with the purchasing and investing transactions of each customer using his award account (Feidelson et al.: col 7, 1-33 and Fig 2);
- b. awarding an equity interest to each customer in an amount based on the value associated with the transactions (Feidelson et al.: col 7, 1-33 and Fig 2).

Claim 8: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in any of claim 4, further comprising the step of awarding equity interests to the plurality of customers by::

- a. determining values associated with the purchasing and investing transactions of each customer using his award account (Feidelson et al.: col 7, 1-33 and Fig 2);
- b. awarding an equity interest to each customer in an amount based on the value associated with the transactions (Feidelson et al.: col 7, 1-33 and Fig 2).

Claim 9 is rejected as related to claim 1 as claim 9 describes a system for implementing the method of claim 1 that is disclosed by Feidelson et al., Loveland and Seely or Business Writers.

Claim 10 is rejected as related to claim 2 as claim 10 describes a system for implementing the method of claim 2 that is disclosed by Feidelson et al., Loveland and Seely or Business Writers.

Claim 14: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in claim 1 but do not explicitly disclose further comprising the step of allowing a customer to pay for a transaction by selling a portion of the stock including fractional shares distributed to the customer's award account. In an analogous art, Loveland and Seely or Business Writers teach that it is known to use a reward system in which users can buy and sell stocks including fractional shares via a portfolio management scheme (Loveland: page 7, parag. 72; pages 9-10, parag. 91-92 and page 11, parag. 104; Seely: abstract and Business Writers: page 2, parag. 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. with the feature of allowing the user to sell the investment vehicle as taught by Loveland and Seely or Business Writers. One would have been motivated to modify the method of Feidelson et al. for providing an added feature of trading for investment vehicles to the account receiving equity thus enticing the consumer to open an account and increase spending via the present shopping channel.

Claim 15: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in claim 14 but do not explicitly disclose further comprising selling a portion of the stock including fractional shares at a current bid price for shares of the stock on an open market. In an analogous art, Loveland and Seely or Business Writers teach that it is known to use a reward system in which users buy and sell publicly quoted stocks including fractional shares via a portfolio management scheme (Loveland: page 7, parag. 72; pages 9-10, parag. 91-92 and page 11, parag. 104; Seely: abstract and

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Business Writers: page 2, parag. 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. with the feature of allowing the user to sell the investment vehicle in the open market as taught by Loveland and Seely or Business Writers. One would have been motivated to modify the method of Feidelson et al. for providing an added feature of trading investment vehicles to the account and receiving equity thus enticing the consumer to open an account and increase spending via the present shopping channel.

Claim 16: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in claim 15 but do not explicitly disclose further comprising the step of adding a difference between the bid and an ask price for the stock being sold to the customer incentive program for subsequent awards. In an analogous art, Loveland and Seely or Business Writers teach that it is known to use a reward system in which users buy and sell publicly quoted stocks including fractional shares via a portfolio management scheme with the equity equivalence being transferred to the users' fund (Loveland: page 7, parag. 72; pages 9-10, parag. 91-92 and page 11, parag. 104; Seely: abstract and Business Writers: page 2, parag. 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. with the feature of allowing the user to sell the investment vehicle as taught by Loveland and Seely or Business Writers. One would have been motivated to modify the method of Feidelson et al. for providing an added feature of trading investment vehicles to the account and receiving equity thus enticing

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the consumer to open an account and increase spending via the present shopping channel.

3. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feidelson et al., Loveland and Seely or Business Writers as applied to the claims above and further in view of Walker et al. (US 6,327,573).

Claim 11: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in claim 1 but do not explicitly disclose further comprising the step of assigning a customer to a tier level based on the customer's level of shopping and investing with a seller in the customer incentive program. In an analogous art, Walker '573 teach that it is known to use a reward system in which specific rewards are allocated depending on the threshold level or tier of the consumers (col 9, line 55 to col 10, line 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al., Loveland and Seely or Business Writers with the feature of presenting incentives based on the level of the user as taught by Walker '573. One would have been motivated to modify the method for providing an encouragement for increased spending from the users desiring a different or superior reward.

Claim 12: Feidelson et al., Loveland and Walker et al. disclose a method as recited in claim 11 but do not explicitly disclose further including providing incentives to the customer at a specific tier level that are not provided to customers at lower tier levels. In an analogous art, Walker '573 teach that it is known to use a reward system in which specific rewards are allocated depending on the threshold level or tier of the

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consumers (col 9, line 55 to col 10, line 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al., Loveland and Seely or Business Writers with the feature of presenting incentives based on the level of the user as taught by Walker '573. One would have been motivated to modify the method for providing an encouragement for increased spending from the users desiring a different or superior reward.

Claim 13: Feidelson et al., Loveland and Walker et al. disclose a method as recited in claim 12 but do not explicitly disclose further comprising the incentives including at least one of an advanced purchase option, a discount, a coupon, a bonus and additional seller stock. In an analogous art, Walker et al. teach that it is known to use a reward system in which specific rewards such as merchandise or service coupons are allocated depending on the threshold level or tier of the consumers (col 9, line 55 to col 10, line 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al., Loveland and Seely or Business Writers with the feature of presenting incentives based on the level of the user as taught by Walker '573. One would have been motivated to modify the method for providing an encouragement for increased spending from the users desiring a different or superior reward.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feidelson et al., Loveland and Seely or Business Writers as applied to the claims above and further in view of Hucal (US 6,836,764).

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Claim 17: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in claim 1 but do not explicitly disclose further comprising the step of issuing a credit card to a customer with a variable rate that is based on a value of the stock holdings in the customer's award account. Both Feidelson et al. and Loveland recite the use of a credit card in the reward system. In an analogous art, Hucal teaches that it is known to use a reward system in which the interest of the credit card depends on the threshold level of the consumers' fund (col 4, lines 14-39). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al., Loveland and Seely or Business Writers with the feature of presenting incentives based on the level of the user as taught by Hucal. One would have been motivated to modify the method for providing a feature that encourages increased spending from the users desiring a better interest rate tied in to the credit card.

5. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feidelson et al., Loveland and Seely or Business Writers as applied to the claims above and further in view of Hardesty (US 6,105,865)

Claims 17-18: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in the claim above but do not explicitly disclose further comprising distributing the stock to another entity specified by the customer instead of distributing the stock to the customer's account and the another entity is at least one of a family member, a friend, a charitable institution and an educational institution. Both Feidelson et al. and Loveland recite the use of a credit card in the reward system. In an analogous art, Hardesty teaches that it is known to use a reward system in which the investment

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accumulated by the user are allocated to a third party designated by the user such as charities (col 7, lines 13-21). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al., Loveland and Seely or Business Writers with the feature of distributing the accumulated to a designated beneficiary as taught by Hardesty. One would have been motivated to modify the method for providing a feature to attract a wider and diverse range of users such as philanthropist.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feidelson et al., Loveland and Seely or Business Writers as applied to the claims above and further in view of Walker et al. (US 6,128,599).

Claim 20: Feidelson et al., Loveland and Seely or Business Writers disclose a method as recited in claim 1 but do not explicitly disclose further comprising the step of awarding equity interests to a customer based on referrals of potential customers to the customer incentive program. In an analogous art, Walker '599 teach that it is known to use a reward system in which a finder's fee is allocated to a user who has successfully refers a new user (col 11, lines 13-26). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al., Loveland and Seely or Business Writers with the feature of a referral fee as taught by Walker '573. One would have been motivated to modify the method for providing an incentive for present users to attract new customers thus increasing the customer base and greater profitability via a bigger market share.

Response to Arguments

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7. Applicant's arguments, see appeal brief page 10, filed 04/02/07, with respect to the rejection(s) of claim(s) 1-20 under 103(a) have been fully considered and are persuasive and, therefore, the finality of that action is withdrawn. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art teaching the feature of fractional share.

Regarding claims 11-13, applicants argue that the Walker '573 reference does not teach a tier level (pages 11 and 12). The examiner respectfully disagrees as the Walker '573 teach the feature of a tier rules and assigning a plurality of classes that related to specific rewards (col. 9, line 65 to col. 10, line 23).

Regarding claim 17, applicants argue that the Hucal reference does not teach "a variable rate that is based on the value of the stock holdings in the customer's award account" (pages 12 and 13). The examiner respectfully disagrees and notes that the feature of the stock holding account is taught by Feidelson et al. and Loveland and the Hucal reference is relied upon to teach the feature of a variable rate based on an account.

Regarding claims 18 and 19, applicants argue that the Hardesty reference does not teach the feature of distributing the stock to another entity (pages 14 and 15). The examiner respectfully disagrees and notes that the feature of the stock holding account is taught by Feidelson et al. and Loveland and the Hardesty reference is relied upon to teach the feature of allocating investments to a third party.

Regarding claim 20, applicants argue that the Walker '599 does not teach the feature of awarding equity interest to a customer based on referrals (pages 16 and 17). The examiner respectfully disagrees and notes that the Feidelson et al. and Loveland reference teach the feature of equity interest and the Hardesty reference is relied upon to teach the feature of referrals awards.

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Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri V. Nguyen whose telephone number is (571) 272-6965. The examiner can normally be reached on M-F 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029 and Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NVT
July 9, 2007



**ERIC W. STAMBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600**